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NEWSLETTER OF THE EUROPEAN SOCIETY OF CRIMINOLOGY

MARCH 2006

ESC in Tübingen in 2006

By Hans-Jürgen Kerner

The European Society of Criminology's sixth annual conference will take place in Tübingen, Germany on August 26 to 29, 2006. It will be hosted by the Institute of Criminology of Eberhard-Karls-University, with support from German, Austrian, and Swiss criminological associations.

Tübingen is a beautiful city which retains many historic buildings and houses one of

Germany's great universities. The conference will be held in university buildings near the town centre.

A wide range of accommodation from fine hotels to student hostels is available. Part of Tübingen's charm is that it is not an enormous city; accommodation is limited. Early registration and early hotel reservations are recommended.

The town offers a number of large hotels, but also pensions, apartments, and guest houses. In the centre are



excellent restaurants, bars, coffee shops, and cultural attractions, among them historic buildings, Hohentübingen Castle, the city museum, and the castle museum. In the surrounding area, impressive limestone caverns with stalagmites and stalactites can be visited. Among the many must-see regional sites are Hohenzollern Castle (the birthplace of the last German

dynasty), the Roman villa of Stein, the Roman wall and museum in Rottenburg, and the State Gallery of Arts in Stuttgart.

The Conference

The conference will be held in university buildings on the edge of the town centre: the "Copper Building" with large new lecture halls, the "New Aula" with the ceremonial *Continued on page 8*

Nominations Sought for ESC President and At-Large Board Members

Nominations and applications are sought for the ESC presidency for 2007-2008 and for two twoyear positions as at-large board members. Nominations must be received by May 15, 2006. The president is elected for a three-year term, president-elect, president, and past president for one year each. Nominations will not be regarded as final without confirmation by the person nominated.

Applications should be sent to:

Marcelo Aebi, Executive Secretary Rico Cejudo 49 -3C E-41005 Sevilla SPAIN Tel./Fax: 34 954 094173 Email: aebi@esc-eurocrim.org

Nominations Sought for Editor of European Journal of Criminology

David Smith is stepping down from the editorship of the *European Journal of Criminology* and a successor must be reappointed. Enquiries should be directed to Professor Smith (david.j.smith@ed.ac.uk) Persons interested in succeeding him for a term of up to 5 years should advise Marcelo Aebi by May 1, 2006.

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Message from the President

Watching Youth Criminal Policy Trends in Europe By Hans-Jürgen Kerner

The violent aftermath to the Danish newspapers' cartoons depicting the prophet Muhammad occurred mostly in Islamic countries. However, even if "the West" has been spared from violent demonstrations, those foreign events may accelerate the "tightening

politicians.



the Bundesrat that was several times rejected under the last government. It aims to introduce stark modifications into the Youth Court Law. The well-established system of either-way jurisdictions in which 18-20 year old defendants can be dealt

with by the competent youth courts according to either substantive juvenile law or substantive adult law would be eliminated.

All such young people would be dealt with as full adults, except in a restricted category of cases of severely hampered psychosocial development. Even for the latter, maximum sentences would increase from ten to fifteen years, and young people would become eligible for preventive detention.

The so far failed initiative is likely to eventually become law. Proposals to lower the age of criminal responsibility from 14 to 12 years of age are also likely.

Those developments do not signify a definite "turning point" in European youth policy and juvenile justice which have, in most countries, respected humane, rational, and inclusion-oriented ideals instead of harsh and exclusionary values. Criminologists should, however, pay much more attention to what is going on in public opinion, public policy, election campaigns, and legislative bodies, and mainstream discourses in professional and scholarly journals.

Radical policy proposals that are not contested clearly and succinctly may prepare the soil for concrete legislative, judicial, and administrative actions that could reverse the "age of juvenile justice" Europe has been committed to for a couple of decades.

The ESC has a suitable forum in its thematic working group on juvenile justice, started and steered by our former president, Josine Junger-Tas, that is working to play this role. ■



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demonstrations, those foreign events may accelerate the "tightening up" of domestic security systems of European countries, including how public space is policed and how crimes are handled. Fears of outside threats may attach to minorities within our societies. This fragile sense of domestic security adds to a general mood of unease and negative expectations sparked up by the press, especially the tabloids, and by certain

In France, the recent uproar among minorities living in the banlieues has led the minister of home affairs to propose harsh methods of dealing with mainly minority youth. This may add momentum to changes in youth criminal policy that started a few years ago with thoroughgoing revisions of the French youth court that move the system away from education and treatment, and towards more explicit punishment values.

In Germany, the minister of justice in one northern state initiated an overhaul of the correctional system, with the aim of eliminating sociotherapeutic and other institutions characterised as representing a "soft" attitude towards crime and "hardened criminals." The same minister announced that the juvenile justice system has totally failed and suggested that juvenile justice should be abolished.

This comparatively extreme position has no realistic chances of adoption in the foreseeable future. However, it is remarkable that a politician responsible for justice policy feels comfortable espousing such radical ideas.

In February 2006, some state governments reintroduced a bill in the

Money-Laundering in Europe

By Michael Levi

People who commit serious crimes for economic gain want not only to evade imprisonment but also to enjoy the fruits of their crimes. Often, this enjoyment takes the form of immediate (sometimes conspicuous) consumption. More Calvinistic and economically ambitious people – and those who make so much money that they cannot sensibly spend it all immediately – may save some proceeds to enjoy them later. Laws against handling stolen property were generally held to refer only to the physical property obtained in the course of the crime. Since the mid-1980s, however, the disguise or concealment of proceeds of crimes has itself been criminalised as 'money laundering' in most parts of the world.

The term 'money-laundering' sounds as if it refers to complicated global movements of capital by evil financial geniuses to legitimise vast sums. Most prosecutions are instead for relatively unsophisticated self-laundering, such as putting money in an onshore bank account in one's own name or borrowing money against the collateral of funds deposited in overseas accounts (van Duyne and Levi 2005; Reuter and Levi, forthcoming; Reuter and Truman 2004). In this sense, the wide span of organisation and sophistication in laundering is analogous to that of 'organised crime' (Fijnaut and Paoli, this issue; Levi 2002, forthcoming).

Continued on page 14

Organised Crime in Europe

By Letizia Paoli and Cyrille Fijnaut

Since the early 1990s the fight against organised crime has been one of European politicians' and government agencies' most effective arguments to enact reforms of criminal laws and procedures, introduce new offences and special investigative powers for law enforcement agencies, and propel the transnationalisation of crime control and criminal justice.

The first comparative assessment of organised crime concepts, patterns, and control policies in thirteen European countries, which we coordinated jointly for over three years (Fijnaut and Paoli 2004), shows that significant policy changes were made not just at European Union and Council of Europe levels but in all the countries analysed. Among these are seven 'established' Member States of the European Union (Denmark, France, Germany, Italy, the Netherlands, Spain, and the United Kingdom), two new Eastern European members (the Czech Republic and Poland), a candidate country (Turkey), and three non-EU countries (Albania, Russia, and Switzerland).

Internationalisation of Policy-Making

It is by no means excessive to say that organised crime policy in Europe has increasingly transcended national boundaries and since the late 1990s has become a matter of international politics and hence also of the foreign policies *Continued on page 12*

Sex Offender Policies in Five Countries

By Hilda Tubex

Sex offenders have gained prominence in the sentencing debate. There has been a tendency to decriminalise some sexual acts (e.g., homosexuality, sodomy) while criminalising others (e.g., rape within marriage or irrespective of the victim's sex). This has been associated with increasing severity in punishment for certain sexual crimes, but significant variation in policies on punishment and prevention also exist.

Changes in the Legal Concepts

In a number of countries, concepts of sexual offending are changing. In some countries, this has resulted in an exhaustive review of the legal basis of criminalised sexual behaviour. In others, developments have been more piecemeal. This is reflected in differences in the taxonomies of sexual offences. Out-of-date and often moralizing terminology has been replaced. Increasingly the emphasis is on violence inherent in sexual abuse. For example, in France, since the new *Code Pénal* of 1994, sex offences have been classified as "crimes against the person." New concepts such as "sexual aggression" (*agressions sexuelles*) and "sexual harassment" (*harcelement sexuel*) were introduced (Lameyre 2001). In Germany these crimes are classified as "abuse of sexual autonomy" (*Straftaten gegen die sexuelle Selbstbestimmung*) and described as sexual aggression (*sexuelle Nötigung*). Rape (*Vergewaltigung*), introduced into the law in 1974, also implies aggression (*Gewalt*) (Klopp 2002; Tubex 2002).

Decriminalisation

The decriminalisation of certain sexual acts is part of a broader trend that began in the 1960s. A number of activities have disappeared from the statute books. These include adultery, homosexuality, and abortion (in particular circumstances). However, this broader tolerance of noninjurious, consensual, sexual behaviour has been associated with a hardening of responses to other sexual behaviour. Increasingly, attention is given to activities that could be "dangerous" in the sense that they could lead to delinquency or cause injury to others (Van de Kerchove 1987).

Alternative Treatment Methods

Throughout the 1960s the use of prison sentences was questioned and, influenced by studies that showed that *Continued on page 16*

NEWS FROM THE EXECUTIVE SECRETARY

The Executive Board met in Leiden, the Netherlands, on December 10, 2005.

Conferences

Plans for Tübingen are going well, A number of applications to host future meetings have been considered. Arrangements were finalised to hold the 2007 meeting in Bologna. Maric Barbagli will chair the organising committee. The 2008 meeting will be in Edinburgh, though final details are still being worked out. Richard Sparks will serve as chair.

Awards

As announced during the General Assembly in Krakow, the Board considered the idea of creating European Society of Criminology awards. It was decided to introduce an award for junior researchers. The board also discussed a second possible award that would recognise work done, especially by people or institutions not in an academic environment, to implement innovative policies. An open session will be held in Tübingen to discuss how these awards should be administered.

Working Groups

One continuing ESC priority has

been to increase participation by criminologists from Eastern Europe. In that context, a new ESC Working Group on Eastern European

Criminology has been approved. Beata Gruszczynska (Warsaw University) and Louise Shelley (American University) will coordinate. It will have its first meeting in Tübingen. Another working group, for young researchers, is under development.

Elections

According to the modifications to section 4 of the ESC Constitution approved by the General Assembly in Krakow, the ESC in 2006 will elect two at-large board members and a president. The at-large board members will be elected for two years and the president for a three-year term (the first year as president-elect, the second as president, and the third as

past-president).

Journal

The European Journal of Criminology (EJC) was a dream of the ESC's founders when David J. Smith was appointed editor at the first General Assembly in Lausanne. David and his team made that dream into a reality. An excellent summary of the first years of the EJC can be found in an editorial introduction included in the January 2006 issue. David's mandate is approaching its end. The board invites applications for the position of Editor of the EJC.

Please send nominations and applications for at-large board members and president of the ESC, and applications for the position of editor of the EJC, to the Executive Secretariat by e-mail (secretariat@esceurocrim.org).

The ESC had 480 members in 2005. of whom 105 were students. These are the greatest numbers since the creation of the ESC. During January, members received an e-mail inviting them to renew memberships for 2006. In that regard, I beg you to take note of the new address of the Executive Secretariat given on page 2.■

The European Journal of Criminology: The first two years

When the European Society of Criminology was founded, it was clear that Europe needed its own forum for publication of findings on crime and criminal justice.

Much published research is inaccessible to scholars from other countries because of language barriers. Although there are many good English language journals, these are dominated by articles from local authors about local or regional issues. It seemed essential to have a journal that serves scholars across the full range of European countries.

By David J. Smith

Breadth of Coverage

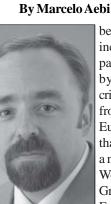
The EJC aims to 'publish articles using varied approaches, including discussion of theory, analysis of quantitative data, comparative studies, systematic evaluation of interventions, and study of institutions and political process (the list is not exhaustive).'

On the whole, the objective of reflecting the variety of European criminology has been achieved over the first two years. The subject matter has ranged widely, from Russian prisons to juvenile delinquency, from

police intelligence systems to the biology of crime, from burglary hotspotting to the indictment of Milosevic.

A substantial number of articles report quantitative results (for example, Francis, Soothill, and Fligelstone on identifying types of offending behaviour in issue 1.1, and Oberwittler on the effects of the neighbourhood context on juvenile offending in issue 1.2).

A smaller number of articles report results of qualitative research or case studies (for example, Hobbs, Winlow, Hadfield, and Lister on alcohol and



night-time city violence in issue 2.2, and Piacentini on barter in Russian prisons in issue 1.1).

Some articles report the results of comparative research based on identical or closely similar measures in different countries (for example, Esbensen and Weerman on youth gangs in the U.S. and the Netherlands in issue 2.1, and van Wilsem on victimization in 27 countries in issue 1.1). Others adopt a comparative perspective (for example, Hodgson on the detention and interrogation of suspects in police custody in France in issue 2.1, or Sattar and Killias on the death of offenders in Switzerland in issue 2.3).

There have been articles on the political background to crime and criminal justice (for example, Estrada on the transformation of the politics of crime in high crime societies, and Hagan and Levi on the Milosevic indictment and the rebirth of international criminal justice in the same issue) together with articles on the impact of the media (for example, Pfeiffer, Windzio, and Kleimann in issue 2.3).

There have perhaps been too few strongly theoretical articles: nevertheless, two examples are Killias in issue 3.1, which presents a theory of crime waves, law creation, and crime prevention, and Ellis in issue 2.3, which expounded a theory explaining biological correlates of criminality.

Diversity of Writers

An important aim is to include contributions from the widest possible range of European countries, both within and beyond the European Union. Nevertheless, now and for some time in the future there is bound to be a preponderance of articles from countries where criminology is already well-developed, though every effort is made to encourage and develop submissions from countries where the tradition is young.

The balance has been redressed to some extent by including a country survey in every issue: an accessible, but authoritative and detailed summary of research on crime and criminal justice in a selected country. Countries surveyed over the first two years were France, Switzerland, Poland, Estonia, the Republic of Ireland, Greece, Spain, and Germany. Surveys of Italy, Iceland, and the Netherlands are planned.

As the coverage is gradually extended over the whole of Europe, these surveys will make available in English a base of information about each country, most of it gleaned from sources in the original languages that are inaccessible to most scholars eleswhere. The references provide a starting point for research on specific issues, and the collection of surveys, as it grows, will constitute an important resource for comparative studies. After two years, this European dimension is well-defined. Whereas other criminology journals include the occasional article by a European author outside the UK, the EJC includes many. Most report on findings from European countries, and a number deal with distinctively European concerns, such as war crimes in the former Yugoslavia, standards of integrity in the new Bosnian police force, or the impact of the Northern Ireland conflict on policing in Britain and in Ireland.

Policies and Personnel

The EJC is a refereed journal, meaning that in principle all articles, including any (such as country surveys) that are commissioned by the editor, are anonymously reviewed. (In practice, it has not been possible to have some country surveys reviewed because of time constraints, but that is not expected to continue.) The input by referees and by the editor in developing articles can be substantial, and this nurturing role is an important element of the journal's mission. It was nevertheless very hard to provide the required level of support to authors because there were not enough members of the international advisory board, which is the main pool from which referees are drawn. This problem has been addressed through an overhaul of the membership of this board, including recruitment of 18 new members.

The reconstituted board includes an impressive range of skills and specialisms, so that it is much easier to find appropriate reviewers among its members. Each of the eminent scholars recently invited to join agreed to do so, and many went out of their way to express their enthusiasm for the enterprise. This is a sign that the journal is gathering momentum.

In addition to the international advisory board, which by its nature must be large, a small editorial board of five meets once a year to discuss journal policy. At its meeting in January 2005, the board decided to publish a number of thematic issues, at the rate of about one a year. A guest editor will take charge of each special issue (they will not include country surveys). Recognising the profound significance of recent events, the first special issues will be on organised crime and terrorism. Two more are planned: one on migration, ethnic minorities, and crime; and on evidence-based policies on crime and criminal justice.

Following a suggestion made at the ESC meeting in Toledo, the journal published abstracts of all articles in French and German as well as in English over the first two years. The editorial board however decided at its January 2005 meeting to discontinue the practice. The value of the translations of abstracts was seen as more symbolic than practical. English has been adopted because in practice it is the best medium for international communication. In France and Germany, there are few scholars who would not be able to read an abstract in English. Outside France and Germany, there are few scholars who would find it easier to read an abstract in French or German than in English. From issue 3.1 onwards, abstracts appear only in English.

Experience so far suggests that the model originally envisaged for the journal is sound. It has taken off, and looks set to fly a long way. The early changes reported here are relatively minor, but probably the first of many, since any dynamic project must involve a continuous process of development. Through the two journal boards, through our interactions with authors, and through the journal's panel sessions at each annual ESC meeting, we hope to set up a structure in which future changes emerge from dialogue with the journal's various constituencies.

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Tübingen 2006 Continued from page 1

hall, the auditorium maximum, and other, smaller, lecture halls and meeting rooms nearby.

The conference theme is "Understanding Crime: Structural and Developmental Dimensions, and their Implications for Policy."

The last two ESC conferences were devoted to vital topics of ongoing importance: "Global Similarities, Local Differences" (Amsterdam); "Challenges of European Integration, Challenges for Criminology" (Krakow).

The theme of the Tübingen conference is also both perennial and timely, taking stock of the contributions of empirical research in criminology and its allied disciplines to achieve a theoretically improved, methodologically refined, and more profound understanding of crime.

History

The first documentary mention of Tübingen dates from 1078. However, the string of letters "-ingen" indicates, as with other villages and towns with similar endings, that the original settlement was founded by Alemanic tribes some 1,500 years ago. Around 1078, Emperor Heinrich IV of the "Holy Roman Empire of the German Nation" besieged Hightübingen Castle, which belonged to the Counts of Nagoldgau, upon return from his famous Canossa procession to the Pope in Italy.

Around 1191, priests and merchants are mentioned in writings about Tübingen and around 1204 the town earned the privilege of "high jurisdiction," meaning the powers to impose the death penalty and carry it out. In 1230, under the Palatine Counts of Tübingen, the town achieved formal status as a "civitas," a term indicating a location with municipal law and civil liberty. In 1342, following a steep economic recession, the Palatine counts sold the town to the Count of Württemberg.

Since then Tübingen has been embedded in the history of Württemberg: the Duchy of Württemberg after 1495; the Kingdom of Württemberg from 1806 to 1918; after that the Weimar Republic and the Nazi dictatorship; and, since 1952, the State of Baden-Württemberg, a Land of the Federal Republic of Germany.

In the aftermath of an uprising by the people of the Rems Valley in Württemberg, Tübingen's citizens successfully claimed important basic human rights from the then Duke Ulrich in 1514. The resulting Hohentübingen Castle from which there is a panoramic view of the Swabian Alb.

Tübingen has some 85,000 inhabitants.

The University

In 1477 Count Eberhard im Barte ("the one with the beard") founded a

CONFERENCE REGISTRATION FEES: 2006

	Before July 1	After July 1
ESC members	Euros 100	Euros 175
ESC members (students)	Euros 60	Euros 100
Non ESC members	Euros 175	Euros 250
Non ESC members (students)	Euros 100	Euros 175

You can download a registration form from the conference website (http:// www.eurocrim2006.org/) and fax it to Marcelo Aebi, Executive Secretary (Fax no. 34 954 094173.

document, the Tübinger Vertrag (Treaty of Tübingen), is famous in German legal history. Evoking the English Magna Carta of King John in 1215, it has been called the "Magna Carta of Württemberg." It is the earliest legal document in Germany by which the people achieved a right of co-determination, constraining the power of the ruler, and ensuring important privileges for themselves. The Tübingen Treaty influenced constitutional development in Southwest Germany for centuries, and in the 19th century was still referred to as the "good old law."

Tübingen, primarily a university town, exhibits many signs of its heritage. Narrow alleys, pointed gables, and small steps characterise the town centre, framed by the picturesque Neckar river waterfront, the punting boats, and the famous Hölderlin tower. It includes the old city church, the market place and town hall, and adjacent shopping streets with sidewalk cafés, wine taverns, specialty shops, and restaurants. Steep small streets wind up to private university with the slogan "attempto" ("I will dare it"). Universities already existed in Basel, Freiburg, Heidelberg, and Ingolstadt. However, Count Eberhard's quickly achieved recognition and academic esteem. During the reformation period, the protestant reformer Philipp Melanchthon lived in Tübingen and prepared a master plan for overhauling the university's structure and teaching syllabus. Among the new professors appointed then was Leonhard Fuchs, a medic and botanist after whom the plant family "fuchsia" was named. In 1623 professor Wilhelm Schickard invented and built the world's first mechanical calculator. Later on philosopher David Friedrich Strauss, astronomer Johannes Kepler, and the poets Eduard Moericke and Wilhelm Hauf were members of the university.

The period 1788 to 1795 was especially influential in Tübingen's intellectual history. Hegel, Hölderlin, and Schelling studied together and temporarily even lived together in the still existing Protestant Collegiate (founded in 1536). Another surviving famous university institution is the Collegium Illustre, inaugurated in 1594. It was one of the first academies for knights in German-speaking Europe. Modern subjects were taught, including natural sciences, politics, living Hartmut Michel (1988 chemistry), and Christiane Nüsslein-Volhard (1995 medicine/genetics of early embryonic development). Max-Planck-Institutes in Tübingen, independent but collaborating with university departments and scholars, include the

ACCOMMODATION IN TÜBINGEN

Accommodation options are available on the conference website (http:// www.eurocrim2006.org/). You may book directly with the hotels. On-line booking via the Conference Secretariat will be available soon.

Early booking is strongly advised.

languages, dance, swordplay, and horseback riding. Until its closure in 1632 during the Thirty Years War, the Collegium Illustre was the favourite academy of the protestant aristocracy in Germany and abroad, with students coming from Poland, Hungary, Scandinavia, and countries under Habsburg rule.

In 1817, the first German faculty of political science was established, headed by Friedrich List. In 1863, the first German natural science faculty was founded. "Firsts" were also physiological chemistry, and modern cytology (Hugo Mohl). Friedrich Cotta edited German classics, among them Goethe and Schiller, in his famous publishing house.

The modern university has 14 faculties, 24,000 students, 10,000 employees, 450 full and associate professors, and 2,000 other scholars and teachers. The library system, including the university library and some 100 department and institute libraries, holds more than 6 million books and documents. The clinical complex contains 17 clinics with 66,000 inpatients and 200,000 outpatients.

The university recently received large grants for 8 "Special Research Centres" and 10 "Graduate Study Colleges," in such subjects as neurosciences, science ethics, early ancient history, molecular biology of plants, nanotechnology, computer linguistics, and integrated geosciences. Tübingen has had 9 Nobel Prize winners, among them Georg Wittig (1979 chemistry), MPI institutes for biology, biological cybernetics, and developmental biology. The Friedrich Miescher laboratory, named after the great Swiss medic and biologist who discovered DNA, is also in Tübingen.

Conference Details

The conference theme, "Understanding Crime: Structural and Developmental Dimensions, and their Implications for Policy," encompasses structural conditions influencing the emergence of crime as a social phenomenon in neighbourhoods, towns, and countries. It encompasses structural, socio-psychological, and individual conditions leading people to commit crimes. It includes conditions conducive to living a life of crime ("criminality") and counteracting processes that enhance the termination of a criminal career ("desistance"). Finally, new and convincing knowledge is expected about how the occurrence of crime and criminality can be predicted, about effective ways and methods of (local) crime prevention, and about approaches for achieving lasting improvements in prevention and treatment of criminality.

Plenary sessions will be devoted to developmental criminology and criminal careers, policing and methods of crime control, prosecution and sentencing, and corrections and treatment.

Panel sessions will be mainly of two types. Reviewed panels will be arranged by the conference organisers in cooperation with supporting scholarly associations. Others wishing to arrange such a panel should submit an outline of their proposed subject and a list of proposed presenters to Hans-Jürgen Kerner (hans-juergen.kerner@unituebingen.de) not later than April 15. Details may be worked out after confirmation if they are not fully elaborated in the first submission.

Abstract Submission

Regular panels, consisting of related papers, will also be organised. Anyone wishing to make a presentation in such a panel should submit an abstract on-line (see http:// www.eurocrim2006.org/) soon but not later than May 15. Confirmations will be made as soon as possible, we hope early in June, for those who submit their abstracts by May 15. Participants who wish to present a poster at the special poster sessions also should submit not later than May 15.

Proposals arriving after May 15 will not be rejected, but will be accepted only provisionally, and placed on a waiting list, in case conference capacity has reached its limits with on-time submissions. Decisions to accept waiting list proposals will be taken as accepted papers and workshops are cancelled or as space otherwise becomes available. This tends always to happen during conference preparation procedures.

Plenary sessions will last an hour and a half, panel sessions an hour and a quarter. Most will consist of three presentations of 15-20 minutes. Under exceptional circumstances, broad topics may be dealt with in consecutive panels.

Conference registration will be handled by the ESC executive secretariat in Seville, Spain. Registration fees and details of how to arrange accommodation are shown in the boxed texts.

Registration for an optional gala dinner on Monday 28, August in the magnificent Summer Refectory of the picturesque Cistercian Abbey of Bebenhausen near Tübingen, and for other social events and sightseeing tours, will be handled by the local organisers. Details will be put on the conference website soon.■

British Society of Criminology Annual Conference Glasgow, July 5th – 7th 2006

'Research and Theory: New Directions in Criminology'

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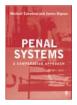
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Organised Crime

of individual countries. After the 'Action Plan to Combat Organised Crime' of April 1997, the fight against organised crime was elevated to the rank of a treaty issue in the Treaty of Amsterdam, becoming central to the Third Pillar. In the reformulated Title VI ('Provisions in the Field of Justice and Home Affairs'), strengthening police and judicial cooperation was directed to serve just one purpose: to combat organised crime. At a special summit in Tampere, Finland, in October 1999, the European Council expressed itself 'deeply committed to reinforcing the fight against serious organised and transnational crime' and launched a 'Unionwide Fight against Crime', meaning primarily organised crime.

In the following years many initiatives were introduced by the European Council and Commission to implement the agreements reached. For instance, Eurojust and the Police Chiefs Operational Task Force were set up, the talks on the Convention on Mutual Assistance in Criminal Matters were completed in 2000, and a framework was developed for the creation of joint investigation teams.

In addition to becoming a part of the Third Pillar, organised crime control has acquired a growing relevance in EU foreign policy. In 1998 the applicant countries, which joined the EU in May 2004, were made to sign a 'Pre-Accession Pact on Organised Crime' and put under considerable pressure to adopt Western European policy in this area: the famous acquis communautaire. At the same time, a variety of programs were initiated by the European Commission and the Council of Europe to help all former European communist countries strengthen their political and judicial capacities in the fight against organised crime and corruption.

This important development—the interweaving of the domestic and foreign policies of the European Union—culminated in the European Security Strategy, which was adopted on 12 December 2003. In this document, organised crime is considered one of the key threats to

Continued from page 3

Europe, alongside terrorism and regional conflicts. Its control is thus singled out as one of the highest priority EU strategic objectives and

The internationalisation of organised crime control policy explains why the changes that have taken place on several fronts in individual countries are so similar

'better coordination between external action and Justice and Home Affairs policies is' stated as 'crucial in the fight against both terrorism and organised crime'.

The internationalisation of organised crime control policy explains why the changes that have taken place on several fronts in individual countries are so similar, whether they involve the centralisation of the police, the judiciary, and the customs authorities, the creation of special units within these institutions, or the introduction of intrusive methods of investigation, such as phone tapping, anonymous witnesses, and undercover agents.

Internationalisation of policy can also throw up negative similarities between countries, not just positive ones, as is plainly evident in the neglect of an administrative, preventive approach to organised crime. Most countries do not have such an approach in place or have not properly implemented one. Italy and the Netherlands are the only two (partial) exceptions (La Spina 2004; van de Bunt 2004; see also Levi and Maguire 2004). Coupled with evident differences in the scope of organised crime in European countries (Paoli and Fijnaut 2004), this one-sidedness raises questions about both the substance of the international/foreign control policy and the way in which it came about.

The first question is whether the policy conducted by the two main European institutions—the European Union and the Council of Europe—is far too uniform: one and the same policy for each Member State. Given the significant differences between countries, would it not be advisable to differentiate more? For instance, should a distinction not be made between compulsory measures that all Member States must adopt because they relate to mutual cross-border cooperation and optional measures they can choose to implement, depending on the problems each country has to deal with?

The second question ties in: when determining which optional measures to adopt, is it not necessary to scrutinise more closely the policy developments that have occurred in the Member States, and not just at the national level, but also at a regional or local level? This approach at least offers some guarantee that the range of measures on offer is as wide as possible, thus ensuring that policymakers really have a choice.

This leads to the third question. Precisely because organised crime is a serious problem that manifests itself locally in a variety of guises, should not local authorities, above all Europe's largest cities, and important implementing bodies (such as customs and police forces) be more directly involved in policy-making?

Whatever the concrete solutions adopted, every effort must be made to prevent the internationalisation of policy leading to a situation where policy becomes alienated from the very problems it is designed to tackle or is not in line with the policies pursued locally to control these problems.

The Controversial Nature of Organised Crime Control Polices

In many countries the development of an organised crime control policy required not only a great deal of lengthy debate, but also could really get off the ground only when murders or scandals—think of Italy, but also France, Ireland, and the Netherlands—had created sufficient support for the new policy initiatives. This raises the question why policy designed to combat organised crime is so controversial.

As made clear by our comparison of organised crime patterns in thirteen European countries (Fijnaut and Paoli 2004: Part II), the controversial nature of organised crime policies is strictly related to the controversial nature of organised crime itself. In particular, it is by no means always clear-or at any rate it is by no means always possible to make it clear to sections of the population—whether this is a new problem or a redefinition of an older one. Ultimately, a great deal of organised crime amounts to the production, smuggling, and distribution of illegal goods and services. And even once some sort of consensus on the definition of organised crime has been reached, it is often not easy-due to the lack of empirical organised crime researchto indicate how serious the problem really is.

The difficulties surrounding the definition and understanding of organised crime carry so much weight in policy discussions because many countermeasures-especially those designed to increase investigative powers-imply restrictions of defendants' and citizens' rights. In their turn, organised crime control initiatives that have a bearing on the reorganisation of the public sector can easily jeopardise the vested interests of domestic institutions and services, and quickly raise important questions-particularly in federal states-about the general organisation of the administrative structure. They can just as quickly incite resistance.

The experiences of the thirteen countries analysed show that these difficulties can be overcome to some extent. Many countries have rewritten their code of criminal procedure in a number of areas and reorganised various government departments. However, this process usually takes a great deal of time and energy and often needs a serious incident (murder, scandal), and considerable political pressure from the outside, to be set in motion.

The Scarcity and Importance of Academic Research

The lack of empirical research is compounded by the lack of academic

research into the implementation of the organised crime policies adopted by individual countries and international institutions. Apparently only the Netherlands and Germany have occasionally produced work in this area (van de Bunt 2004; Kilchling 2004). Though a few books compare organised crime control policies, or some aspects of them, in Europe (Gropp and Huber 2001; Boer 2002; Tak 2000), no systematic assessment has yet been made of the implementation and effectiveness of such policies.

This raises the question of how and why an issue featuring so prominently on the political agenda is so little regarded by academic researchers. To some extent, the reasons are the same as those preventing research on organised crime itself. Confusion surrounding its definition, along with media glamorisation of the topic, has long alienated the attention of scholars from organised crime.

The neglected academic assessment of organised crime control policies may well also be the result of specific additional reasons. One is probably the controversial nature of the policies themselves: this easily deters EU and national authorities from commissioning research into how such policies came about and how they have been implemented, because they fear that academic studies may only stir up even more controversy.

Another factor that should not be ruled out is that domestic and international government bodies have no interest in funding studies that may reveal huge gaps between the policy 'on the books' and what has been achieved in practice. In other words, public bodies may worry that independent assessments come to the conclusion that the expectations aroused at the policy presentation could only partly be fulfilled, if at all.

Another likely reason is that there are simply too few researchers interested in systematically analysing and evaluating the policies conducted. It is not only European researchers who usually—even in Italy (see La Spina 2004)—find it more interesting to write about the phenomenology of organised crime than about the problems of controlling it. Even in the United States, a book like James Jacobs' *Gotham Unbound* (1999) is a rarity.

Be that as it may, precisely because organised crime in Europe is still a rather intangible subject and policy is so controversial, the present sorry state of academic research is regrettable.

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Money Laundering in Europe Continued from page 3

Van Duyne (1998) once graphically observed: 'One of the contemporary stimuli which invariably evoke the conditioned response of political salivation is organised crime, which may be reinforced by the stimulus money-laundering for an additional barking response.' So how and why did that stimulus originate, and is the additional bark rationally appropriate or just a conditioned policy response?

Context

By a combination of imitation, political peer pressure, and technical assistance, since the mid-1980s the

world has witnessed an extraordinary growth in efforts to control crime for gain (and lately, terrorism) via measures to identify, freeze, and confiscate the proceeds of crime nationally and transnationally.

This is an attempt to deal with the crime-facilitating consequences of the core policy to open up money flows via the liberalisation of currency restrictions and marketisation in developing countries including former Communist 'societies in transition', now given the higher status of 'market economies'.

Stripping 'proceeds of crime' from offenders, both by criminal and, increasingly, by civil processes is politically popular and positively received in local communities. Moreover, many on the left who would ordinarily be civil libertarian see pro-transparency anti-money laundering (AML) activities as mechanisms to reduce the kleptocracy/grand corruption that has damaged Central and Eastern European countries and much of Africa, Asia, and South America.

But how serious and well considered has the attempt been? What would the private business sector and civil society have done for themselves without the pressure of criminal and regulatory sanctions? Anti-capitalist terrorists do cause collateral and sometimes direct physical damage to banking interests. But whether or not derived from crimes, 'terrorist finance' funds are not *per se* harmful to financial institutions. So where staff strongly suspect terrorism connections, the general interest might be overcome by direct personal and institutional benefit as well as by the cultural reluctance to challenge customers.

In addition to requirements that bankers train their staff and report suspicions, under the 2001 and 2005 European Directives, accountants, art and car dealers, casinos, jewellers, lawyers, and notaries are required to

The term 'money laundering' sounds as if it refers to complicated global movements of vast sums. Most prosecutions are instead for relatively unsophisticated self-laundering, such as putting money in an offshore bank account in one's own name or borrowing money against the collateral of funds deposited in overseas accounts.

> identify clients and report them to the authorities if their transactions are in cash over 15,000 euros or are 'suspicious' (Levi et al. 2005). Few such reports would have been made without the threat of criminal and regulatory sanctions.

> One useful way of conceptualising the issue is as a global crime-riskmanagement exercise which seeks to conscript those parts of 'the' private sector and foreign governments that seem unwilling to volunteer for social responsibility (see, for a more general account of organised crime prevention, Levi and Maguire 2004).

Many former communist European countries – wishing to or having been told to embrace human rights and fundamental freedoms – find themselves pressured into establishing central databases for financial transfers and sharing data on these reports across the EU. Outside the EU, corruption or extortion – sometimes via taxation – still raise some difficulties over transparency (see Council of Europe, forthcoming).

Activitity

From a few informal tip-offs from bankers to police in 1986, the number of 'suspicious transaction reports' – which more scientifically should have been termed '*suspected* transaction reports' to reflect their dependence on cognitive processes – rose in the UK from 20,000 in 2000 to 154, 536 in 2004. Over the same period, Dutch reports doubled to 41,002. This rise has

> occurred throughout the Council of Europe (not just the EU), reflecting the increased training and number of bodies covered by anti-laundering legislation, plus political pressures of the EU acquis communautaire.

But the 2004 totals still vary enormously. In 2004, the Belgian CTIF-CFI received 11,234 reports, of which 664 cases were sent to the prosecution. TRACFIN (the French financial intelligence unit)

received 10,832; the German Bundeskriminalamt, 8,062; Liechtenstein, 234; and Switzerland, 821. (In the US, 663,655 suspicious transaction reports were made in 2004, in addition to millions of currency transaction reports.) At first sight, this might look like the Liechtenstein and Swiss authorities are doing little about money-laundering: but this rather reflects the policy that when an account is reported as suspicious , it is frozen for a few days pending investigation, placing a premium on having well-founded suspicions.

Effectiveness

Reuter and Levi (forthcoming) have reviewed the evidence of impact of AML, and have concluded that there has been little crime suppression to date, nor – given the poor quality and vast range of estimates of proceeds from drugs, for example – is it plausible that we would be able to detect any effects and separate them from error. Pending UK research on drugs and human trafficking may produce adequate data but, in any event, this would be only for one country and will not examine larger issues such as the proceeds of domestic and transnational corruption that reside in UK and other European accounts. Given the small operational costs of recent European terrorist attacks - less than 10,000 euros - it seems very unlikely that sufficient sums from legal or illegal sources can be denied.

As for the impact of AML on improving criminal justice performance, the few analytical studies carried out to date show that this has been very modest. The extent to which this is attributable to low resource investment and to poor communications between public and private sectors, especially crossborder, remains to be determined. Noone knows what the total number of persons subjected to extra surveillance is in Europe (EU and beyond), but it is a significant feature in the policing landscape, even though scarce financial investigation resources mean that relatively little is done about many of the reports that are received (Gold and Levi 1994; Fleming 2005). But greater skilled commitment to financial investigation and adjudication is likely to improve criminal justice and disruption yields, whatever effect this may have on levels of offending of different kinds.

Conclusions

In many respects, the policy transfer process in AML and anticorruption - assisted by foreign aid for particular developments and economic sanctions for undesired developments - has been a major success. Nevertheless, the goal of affecting the organisation and levels of serious crimes has been displaced in practice by the more readily observable goal of enhancing and standardising rules and systems; the critical evaluation of what countries actually do with their expensively acquired suspicious transaction report data remains in its infancy; and

evaluation of and economic sanctions for poor AML performance, though apparently similar internationally, in practice have focussed more sharply upon smaller and weaker jurisdictions than on the Great Powers, raising questions about the equity of the process.

The mechanisms that facilitate laundering are intricately linked to those that enable wealthy corporations and individuals to hide their assets from public knowledge and, a separate issue, to minimise the taxes they are obliged to pay (Blum et al. 1998; Lascoumes and Godefroy 2002).

However it remains a fact that in wider Europe, out of the billions of Euros obtained and then in part saved from crimes annually, far less than 1 billion euros is confiscated. What has happened to these unconfiscated billions over the decades? What social harm do they do, and where? This is a fascinating but complex criminological and criminal justice policy task that merits sustained attention if we are not to waste resources and liberties on plugging more and more 'gaps' and 'inequities' in the financial transparency process without having any clear evaluation of the benefits of these controls.

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Sex Offenders

detention caused negative consequences. New alternative measures were introduced. The classical alternative was a suspended or a partly suspended sentence. These were later complemented by probation and mediation. Such measures exist in most countries. Alternative measures differ widely in their implementation. Some function as alternatives to prison; others are more repressive.

In the Netherlands, judges can order "community service orders" or "learning sanctions" in combination with a conditional prison sentence. Execution of the sentence is postponed as long as the offender follows a course (for less severe offences) or undergoes treatment (for more serious offences). A wide range of support services exists. There are programmes for first offenders, for adolescents, for mentally-retarded offenders, and for different forms of sexual violence or abuse (e.g., incest). Increasing use is made of these measures. This explains why the proportion of sexual offenders in Dutch prisons remains fairly low (Beenakkers 2001).

In France, the suivi sociojudiciaire has caused some furore. It concerns specific provisions for sexual offenders that were introduced in the Law of June 17, 1998. The suivi sociojudiciaire can be imposed by the judge either as a principal punishment or in combination with a prison sentence. Compulsory supervision can be imposed, in combination with a number of specific restrictions. Supervision of the measure is the responsibility of the Juge de l'Application des Peines (or JAP).

The *suivi sociojudiciaire* is noteworthy on three counts. Firstly, at the time of sentencing, a prison sentence can be specified that would only come into effect should conditions imposed in the community not be met. In minor cases this can be for up to two years, in criminal cases for up to five years. The probation periods can be far longer than with normal probation: up to ten years for misdemeanours and up to twenty for a

Continued from page 3

crime. Where conditions are breached, the JAP can decide that part or all of the conditional prison term be carried out.

Secondly, if a suivi sociojudiciaire is combined with an immediate prison sentence, it begins only when the offender is released, either conditionally or definitively. Finally, this measure falls outside the standard procedure for deletion or recording on certain documents. Lameyre describes it as "une sanction pénale total" (Lameyre, 2002: p. 556). In the so-called Loi Perbn II of 9 March 2004, the possible length of the suivi sociojudiciaire was extended to 20 years for misdemeanours and to 30 years or even life for a crime (Lameyre 2004).

Penalization

Some countries are experiencing increased penalization of certain sexual offences, particularly involving women and children as victims. The feminist movement has been an important influencing factor. Within this movement sexual abuse was redefined in terms of power and the repression of women. This redefinition lies at the root of changing conceptualization of sexual offences as acts of violence.

The media also has increasing impact. Publication of the testimonies of victims of sexual abuse and extensive coverage of sensational cases have shaped public perceptions of the prevalence and nature of sexual offending (Kool 1999). This attention has not been without consequence, and may be one reason the public-atlarge believes that the number of sexual offences is increasing.

In general there has been a trend towards greater tolerance of those offences which may offend values or morals, and less tolerance of those offences which cause injury or abuse the autonomy of the individual.

Sex Offenders in the Penal Process

This bifurcation has resulted in a more punitive approach toward sexual behaviour that threatens to cause

(serious) injury to others. Punishment severity has increased significantly, and there is renewed interest in offenders' treatment needs. A number of changes have affected the punishment of sexual crimes throughout the penal process.

Legislation

Here are some illustrative examples. First, what is understood by rape has broadened: rape within marriage is recognised and the definition of rape has become independent of the sex of the persons involved. This change has been accompanied by increases in sentence lengths and expansion of the circumstances that can lead to harsher punishment. Abuse of minors has also received special attention.

Increasing attention is also given to commercial forms of sexual abuse such as trafficking in women, (virtual) child pornography, and sex-tourism. Length limits preclude a complete overview of the legal changes in the countries involved, so I limit myself to some of the more striking examples of a more repressive approach.

England and Wales provides a whole set of specialised regulations. In the Criminal Justice Act 1991, an exception was made to the guiding principle of proportionality, enabling the judge to impose a prison sentence even if the seriousness of the sexual offences does not justify it, and for longer than the principle of proportionality justifies.

Since the Sex Offenders Act 1997, sex offenders are compelled to register their names and addresses, and any changes, with the police within fourteen days of their release. If not, a fine or a prison sentence up to six months can be imposed. If the offender is deemed to pose a medium or high risk, a Public Protection Panel can be convened, composed of representatives of the police, probation, and social services. This panel meets regularly and ensures an intensive follow-up. The panel can also impose a Sex Offender Order. This is a civil protection measure which falls under the responsibility of the police and can stipulate civil limits

on the offender, such as being forbidden to come near a park or a swimming pool. Breaching a *sex offenders order* is a misdemeanour with a maximum prison sentence of five years (Maguire et al., 2001).

The *Crime (Sentence)* Act of 1997 includes the provision of automatic life sentences. An offender convicted for a "serious" crime automatically receives a life sentence if he has a previous conviction for a "serious" crime. The class of "serious" crimes includes sexual offences such as rape, attempted rape, and unlawful sexual intercourse with a girl under sixteen years old.

The Sexual Offences Act 2003 implemented a major review of the sentencing framework for sex offenders. It provides new definitions for sex offenders, strengthens the notification provisions of the 1997 Act, and creates three new orders for sex offenders.

First, *Sexual Offences Prevention Orders* prohibit a person convicted or cautioned for stipulated sex offences from doing anything proscribed in the order. It includes also notification requirements as stated above, for the duration of the order.

The order has effect for at least five years. Breaches are an offence, punishable with a maximum of five years on indictment or six months on summary conviction.

Secondly, *Foreign Travel Orders*, applicable for sexual offences involving a child under 16, prohibit the person concerned from travelling to the country named in the order and last for a maximum of 6 months.

Thirdly, *Risk of Harm Orders* can be imposed on people who, though they may not have been convicted for sex offences, have, on at least two occasions engaged in behaviour that involves a child in sexual activity of any form. This order prohibits the person concerned from doing anything proscribed in the order. It lasts for a period of at least two years and can be renewed.

Finally, the 2003 act introduces extended sentences for dangerous

offenders convicted of a sexual (or violent) offence for which the maximum penalty is between two and ten years. If the offence is punishable with a maximum sentence of ten years or more, the perpetrator will receive either a sentence of imprisonment for public protection or a discretionary life sentence. If the offence is punishable with a life sentence, the court must take into account the seriousness of the offence when deciding which of the two possibilities to impose. Both sentences provide longer periods of supervision on release.

France has also taken a more repressive approach to sex offenders

England and Wales provides a whole set of specialised regulations. In the *Criminal Justice Act* 1991, an exception was made to the guiding principle of proportionality, enabling the judge to impose a prison sentence even if the seriousness of the sexual offences does not justify it, and for longer than the principle of proportionality justifies

> since 1980. The sentences provided in the French Criminal Code are among the most severe in Europe. The ruling with regard to *periode de sûreté* was changed in the new *Code Pénal* that took effect in 1994. The security period can be imposed by the judge at sentencing. During this period the prisoner may not be allowed home leave, semi-detention, or conditional release.

> The *periode de sûreté* when applied to punishments of fixed term is possible only for half of the imposed term and, for a life sentence, for eighteen years. However, for especially severe cases of rape, the court can increase the duration to two-thirds and twenty-two years for fixed and life sentences respectively. A specific *periode de sûreté* of thirty years is allowed for the murder or manslaughter of minors if these crimes are accompanied by rape, torture, or

cruelty. The judge can also apply a *peine incompressible* which makes it impossible to change the *periode de sûreté*.

Finally, after the introduction of a "genetic database" in 1988, like those in England and Wales and the Netherlands, *La loi Perben II* (2004) introduced a notification system for sex offenders. The "*Fichier Judiciaire Nationale Automatisé des Auteurs d' Infractions Sexuelles*" (FJNAAIS) include the addresses of all sex offenders sentenced to more than five years and, subject to a judicial decision, addresses of some offenders sentenced to lesser sentences. They must report every change within 14

days and if they are sentenced to more than ten years they have to report to the police station every six months. Failure to honour these obligations is an offence punishable by two years imprisonment. The notification requirement lasts for 30 years if the person is convicted to a sentence of more than ten years and for 20 years in all other cases.

There has been a remarkable "innovation" in Belgian and German law, harking back to the heyday

of policies of social defence. In Belgium, judges imposing a custodial sentence longer than a year can, since 1998, order the offenders to be placed at the discretion of the government (TBR), beginning on expiry of the prison sentence, and lasting up to ten years, (or twenty in some cases). The minister can release offenders convicted of criminal sexual offences against minors only after receiving positive advice from a specialised agency. A similar system is in place in Germany. Sicherungsverwahrung (preventive detention) can be imposed for certain sexual crimes in addition to the prescribed sentence. In 1998 the criteria to be met for this form were made less stringent (Klopp 2002).

Police

In the countries described, with the exception of Germany, increases in *Continued on page next page*

Sex Offenders <u>Con</u>

the number of registered sexual offences have been observed. These are mainly cases of rape and to a lesser extent indecent assault. There is also a strong increase in reporting of crimes against minors; in England and Wales this increase is only evident since 2000.

It is difficult to tell if these increases are a consequence of a real increase in the number of sex offences committed. Several important factors might contribute to increased reporting: greater public awareness, initiatives to encourage victims to report crimes, improved detection methods and international cooperation.

Sentencing

All five countries except the Netherlands experienced increases in the number of convictions for sex crimes, the use of immediate prison sentences, and the length of prison sentences. Mostly this is for rape and to a lesser extent indecent assault. Where separate figures are available for crimes against minors, there are also substantial increases. The Netherlands is the exception - there has been an increase in the number of convictions but the number of custodial sentences has remained stable because the increase is mainly in convictions specifying a community service order for less serious sex offences. In Germany there is an increase in long sentences for the most serious crimes of indecency (sexual violence and the sexual abuse of minors), but in practice the policy is more flexible. Both these countries use shorter sentences than do the other countries.

Prisons

The consequence for several countries is an increase in the number of sex offenders in prison. Especially serious offences are singled out for longer punishments, resulting in an increase in the imprisoned population of sex offenders. In Belgium there has been a continuous increase in the number of sex offenders in prison. This was especially noticeable between 1996 and 1998 and is directly

Continued from previous page

related to the "Dutroux-effect."¹ On March 1, 2005 sex offenders made up 17 percent of the prison population, whereas on March 1, 1996 – that is, just before the Dutroux affair – they constituted eleven percent. In the 1980s this was only six or seven percent.

In the Netherlands, sex offenders formed five percent of the total prison population on December 31, 2002. This proportion is virtually unchanged from a survey done in the mid-nineties. Over the period when the number of sex offenders in the Belgian prison population increased by 55 percent, it remained both unchanged and at a lower level.

In France, the proportion of sex offenders in the convicted prison population increased from five percent on January 1, 1975 to 24 percent of the convicted population and 16 percent of the total prison population on the same day in 2001. Since 1980 the number of prisoners held for sex offences against adults has increased four-fold and against minors nine-fold.

In 2004, sex offenders constituted about seven percent of the total prison population in England and Wales. No strong increase of their proportional share has been noticed, but the total prison population also increased substantially and that there has been a significant increase in the lengths of the imposed sentences.

For Germany, data are available only for West Germany where seven percent of prisoners were sex offenders in 1999 and their number remains stable.

Release

In countries where the number of sex offenders remains low and stable, release policies appear to be more tolerant: conditional release is systematically applied (the Netherlands), or quite systematic (Germany), and there are no special conditions linked to parole. This is in contrast with countries where early release has to be preceded by a special (psychological or psychiatric) examination (France, Belgium), has to be followed by specialised treatment or guidance (Belgium), or is accompanied by a longer period of supervision (England and Wales).

Sex offenders in all the countries described are subject to specific legal provisions. In some countries recent laws permit, or require, use of custody beyond limits that would normally be set by judicial standards of proportionality. There is - with the exception of Germany - a general increase in levels of reporting of sexual offences and willingness and ability to prosecute them successfully. On the sentencing level, in England and Wales, France, and Belgium there has been a tendency towards increasing use of imprisonment and use of longer periods, and there are additional restrictions on their possibilities of early release. In the Netherlands and Germany, sentencing and release of sex offenders remain more moderate and in accordance with other offences.

Treatment

Increased penal severity is not the only important trend that can be observed. Punishment of sex offences is often imposed in association with (compulsory) treatment.

Organization.

In Belgium treatment has been required by law since 1995. For specified classes of sex offenders, early release is possible only if the offender is prepared to undergo treatment. During detention, treatment is limited to pre-therapy, or preparation for post-release treatment.

In Germany it was long possible for sex offenders to participate voluntarily in socio-therapy in a socio-therapeutic institution. Partly as a result of the Dutroux-case, in the revised law of January 26, 1998 (*Gesetz zur Bekämpfung von Sexualdelikten und anderen gefärlichen Straftaten*) such treatment became obligatory for those sentenced to more than two years for a violent sex offence, and where treatment is considered appropriate.

In the Netherlands, treatment is mainly limited to the TBS-centres for prisoners held (partially) irresponsible for their acts.

In France sex offenders have to be

imprisoned in institutions where treatment is possible. This treatment is provided by the *Services Medico-Psychologiques Régionaux (SMPR)*, independent psychiatric services working in the prison. Unfortunately, there are only about 26 of these SMPR for 186 penal institutions.

England and Wales has since 1991 had a national program on sex offender treatment during detention; the Sex Offender Treatment Programme or SOTP. It provides a wide range of programmes. The core program includes about 86 sessions. Other extended or adapted programmes are next available. Treatment is not compulsory but refusing it can have a negative effect on decision making on conditional release (Newcomen 2001).

Effectiveness

The key question, naturally, is how effective these treatment programmes are. Although early studies were quite pessimistic (Furby, Blackshow, and Weinrott 1989), and research in this area is still hampered by methodological difficulties, the majority of studies show that well-conceived treatment of sex offenders has a positive result. The growing consensus is that the most suitable method, a cognitive-behavioural approach, supplemented with relapseprevention, has a significant effect.

Conclusion

Earlier I noted a general bifurcatory tendency in responses to criminalised sexual behaviour across the jurisdictions discussed. A tendency to decriminalise sexual behaviour proscribed previously on normative grounds has coincided with an increasing punitiveness towards coercive and injurious sexual behaviour.

However, divergences exist at another level. The current legal position in Europe can be analysed along three dimensions. First, the legal response varies as to the extent it is felt necessary to express public abhorrence in the form of punishment. Secondly, it varies in the extent to which it is felt necessary to associate lengthy periods of incapacitation with punishment and in the extent to which that incapacitation is effected in custody or in the community. Thirdly, although treatment is a component in each jurisdiction, the modes of delivery of treatment vary widely – both in the extent to which treatment is coerced and as between treatment in custody and treatment in the community.

These data argue for a review of the legal responses that are now made, for analysis of the underlying dynamics, and for development of more responsive legal principles to underpin the measures we adopt.

An initial step should be to focus on the uncritical use of the term "sex offender", implying as it does that there exists a homogeneous class of offenders in respect of which there can be a coherent penal discourse. This tends to lead to fundamentally undifferentiated responses, to concentrations of sex offenders in units in prisons, and to "one-type-fitsall" sex offender programmes.

The policy issue to be re-engaged concerns how the distribution of treatment and supervision in the community and expressive and incapacitative use of custody should be made so as best to promote public safety with the most efficient use of resources. Public safety would be better served by increased investment in prevention and early intervention, by greater use of community-based therapeutic measures for low-risk offenders and by reservation of available resources for those offenders who, on the basis of individualised assessment, can be shown to require incapacitative intervention.

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Footnotes

¹ Dutroux was found guilty of the abduction, sexual abuse, and murder of several young girls while on parole for previous sexual abuse of minors.

* * * * *

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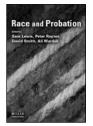
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